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K&L Gates LLP P.O. Box 1135 Chicago, IL 60690-1135			COBANOGILU, DILEK B	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/059,929
Filing Date: January 29, 2002
Appellant(s): BUI ET AL.

Matthew S. Dicke
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/6/2009 appealing from the Office action mailed 8/5/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,790,198

WHITE et al.

9-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-191 are rejected under 35 U.S.C. 102(e) as being unpatentable by White et al. (hereinafter White) (U.S. Patent No. 6,790,198 B1).

A. Claim 1 recites a method for operating a medical device, the method comprising the steps of:

- i. inputting into a first computer a first patient identifier and an operating parameter for the medical device (White; col. 6, line 48 to col. 7, line 57);
- ii. inputting into a second computer, from a first source, a second patient identifier (White; col. 15, lines 3-20);
- iii. inputting into the second computer, from a second source, a medication identifier, the medication identifier including a third patient identifier (White; col. 9, lines 35-43);
- iv. determining if the second patient identifier is equivalent to the third patient identifier and sending the medication identifier to the first

computer, if the second patient identifier is equivalent to the third patient identifier (White; col. 6, line 48 to col. 7, line 57); and

v. determining if the third patient identifier is equivalent to the first patient identifier and sending the operating parameter from the first computer to the medical device, if the third patient identifier is equivalent to the first patient identifier, where the operating parameter does not pass through the second computer (White; col. 4, lines 13-52).

B. Claims 2-191 are rejected for the same reasons given in the Office Action dated 1/30/2008 (paper number 3-13), and incorporated herein.

(10) Response to Argument

Appellant's arguments filed 4/6/2009 have been fully considered but they are not persuasive. Appellant's arguments will be addressed below in the order in which they appear.

In response to Appellant's argument about White does not teach "determining if a second patient identifier is equivalent to a third patient identifier" and "determining if a third patient identifier is equivalent to a first patient identifier"; and thus the present application claims determining if first, second and third patient identifiers are equivalent; Examiner respectfully submits that White teaches "a wireless communication system 9 permitting wireless signal communication from an IV medication infusion pump 10 to a health care management system (HIMS) 60" in col. 4, lines 13-20; "...each patient is individually identified with a patient ID for proper security and tracking in the HIMS (first patient identifier)" in col. 4, lines 42-46; "The hospital wireless communications system

9, having the IV pump 10 with wireless transmitter 45 and a receiver 61 at the HIMS 60, ... to receive a wireless signal 87 representing the doctor's order 82 for IV medication 17 for a patient 20." In col. 6, lines 57-62; and "...the doctor's order signal 87 is received at receiver 61 by the HIMS 60 for storage and/or for comparison to the actual operation characteristics as represented by the signal 49 transmitted from the IV pump 10. The storage and comparison may be carried out using an appropriate CPU 57. The pump 10 may also be provided with wireless signal receiver 51 to receive the doctor's order wireless signal 87 directly" in col. 6, line 65 to col. 7, line 3; White continues "If the nurse's ID is properly entered at 136 and if the authorization code is present in the entered ID, as indicated by 138, then the control software allows the nurse to proceed, as indicated by arrow 146. The nurse is prompted to scan in the patient's ID (second patient identifier), at step 148. The patient's ID may appropriately be established with a wristband having a bar code for the patient's ID set forth thereon...If the patient ID is scanned, as indicated with arrow 154, the nurse will be prompted to either scan in the infusion information from the container (third patient identifier), as set forth in action block 156, or receive a wireless signal from the HIMS. The scanning of the information from the container would involve scanning the bag, bottle, syringe or other medication container past the bar code scanner window 64 with an appropriate confirmation that the scanning was completed..." in col. 15, lines 3-34 and "The IV pump 10 may receive a wireless signal indicating the appropriate instruction pumping characteristics for the IV fluid container that is connected to the IV pump 10 for the identified patient 20. Such infusion data and pumping characteristics will nevertheless need to be validated by the

nurse in order to maintain the integrity of the system. For example, the nurse may enter the information from the IV fluid container identifying the medication, may also identify the patient, and may provide the nurse's identification consistent with authorization to administer medications to the patient. The pump operation data may be downloaded from the doctor's order, from the pharmacy instructions or from the HIMS 60. **For purposes of central administration control, the doctor's order and/or the pharmacy instructions may be wirelessly received at the HIMS and such order and instructions may be checked and corroborated with patient information and/or medical information stored in the HIMS for purposes of confirming proper administration to the patient.**" In col. 8, line 55 to col. 9, line 6 and White teaches getting the doctor's order wirelessly, scan the patient's ID from the wristband and medication ID from the container, then the system (HIMS) confirms the proper medication administration to the proper patient.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/D. B. C./

Examiner, Art Unit 3626

Conferees:

Application/Control Number: 10/059,929
Art Unit: 3626

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